

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

BLUE SPIKE, LLC §
Plaintiff

v. § **No. 6:15cv584**

AUDIBLE MAGIC CORPORATION §
Defendant

AUDIBLE MAGIC CORPORATION §
Counterclaim Plaintiff

v. §

BLUE SPIKE LLC, BLUE SPIKE, INC. §
and SCOTT A. MOSKOWITZ
Counterclaim Defendants §

ORDER REGARDING AMENDED PRETRIAL DEADLINES

The above-entitled and numbered cause of action was referred to the undersigned United States Magistrate Judge for pretrial purposes in accordance with 28 U.S.C. § 636. On October 14, 2015, the Court continued the October 19 pretrial conference and the November 9 jury selection and trial under further notice. The Court, having been advised by the Special Master that a settlement has not been finalized, enters this Order Regarding Amended Pretrial Deadlines, setting this case for jury selection and trial July 18, 2016.

This order modifies certain pretrial deadlines, as well as the pretrial materials portion of the June 26, 2015 Trial Preparation Order, to reflect Judge Schroeder's general practices. In addition to the deadlines contained in the Court's previous Scheduling Orders, the parties must comply with the following amended requirements by the dates listed below.

PRETRIAL EVENTS	DEADLINES
<p>Deadline for parties to exchange pretrial disclosures (Witness List, Deposition Designations, and Exhibit List)</p> <p>Video and Stenographic Deposition Designation due. Each party who proposes to offer deposition testimony shall serve a disclosure identifying the line and page numbers to be offered.</p>	May 18, 2016
<p>Deadline to notify Court of daily transcript or realtime request</p> <p>If a daily transcript or real time reporting of court proceedings is requested for trial or hearings, the party or parties making said request shall file a notice with the Court and email the Court Reporter, Brenda Hightower Smith, at brenda_smith@txed.uscourts.gov.</p>	June 1, 2016
<p>Deadline for parties to exchange objections to pretrial disclosures</p> <p>Deadline to exchange Rebuttal Designations and Objections to Deposition Testimony.</p> <p>For rebuttal designations, cross examination line and page numbers to be included.</p> <p>In video depositions, each party is responsible for preparation of the final edited video in accordance with their parties' designations and the Court's rulings on objections.</p>	June 1, 2016
Deadline to exchange objections to Rebuttal Deposition Testimony.	June 8, 2016
<p>Deadline to file pretrial materials* (Joint Final Pretrial Order, Joint Proposed Jury Instructions with citation to authority and Form of the Verdict for jury trials, Motions in Limine, and pretrial objections).</p> <p>Parties shall use the pretrial order form on Judge Schroeder's website.</p> <p>The parties are ORDERED to meet and confer to resolve any disputes before filing any motion <i>in limine</i> or objection to pretrial disclosures.</p>	June 17, 2016
Deadline to file responses to Motions <i>in Limine</i> and the time requested for (1) voir dire, (2) opening statements, (3) direct and cross examinations, and (4) closing arguments.	June 23, 2016
Deadline for parties to exchange exhibits	July 1, 2016

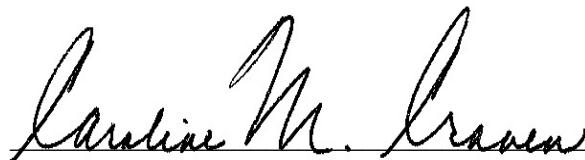
Initial pretrial conference in Texarkana, Texas before U.S. Magistrate Judge Caroline M. Craven , Fourth Floor Courtroom ¹	July 6-7, 2016 at 10:00 a.m. (only if second day needed)
Jury selection in Tyler, Texas before U.S. District Judge Robert W. Schroeder, III , with trial immediately following	July 18, 2016 at 9:00 a.m.

***Pretrial Materials:**

- (a) **Motions in Limine:** Each side is limited to one (1) motion *in limine* addressing no more than ten (10) disputed issues. In addition, the parties may file a joint motion *in limine* addressing any agreed issues. The Court views motions *in limine* as appropriate for those things that, if mentioned in front of the jury before an evidentiary ruling can be made, would be so prejudicial that the Court could not alleviate the prejudice with an appropriate instruction.
Rulings on motions *in limine* do not exclude evidence, but prohibit the party from offering the disputed testimony prior to obtaining an evidentiary ruling during trial.
- (b) **Exhibits:** Each side is limited to designating 250 exhibits for trial absent a showing of good cause. The parties shall use the exhibit list sample form on Judge Schroeder's website.
- (c) **Deposition Designations:** Each side is limited to designating no more than ten (10) hours of deposition testimony for use at trial absent a showing of good cause. As trial approaches, if either side needs to designate more than ten (10) hours, the party may file a motion for leave and show good cause. All depositions to be read into evidence as part of the parties' case-in-chief shall be EDITED so as to exclude all unnecessary, repetitious, and irrelevant testimony; ONLY those portions which are relevant to the issues in controversy shall be read into evidence.
- (d) **Witness Lists:** The parties shall use the sample form on Judge Schroeder's website.

IT IS SO ORDERED.

SIGNED this 3rd day of February, 2016.



CAROLINE M. CRAVEN
UNITED STATES MAGISTRATE JUDGE

¹ District Judge Schroeder will conduct a final pretrial conference.